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KRIEGER INTELLECTUAL PROPERTY, INC.  
PO BOX 872438  
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OFFICE OF PETITIONS

ON PETITION

In re Application of  
Andrew M. Fertlitsch et al.  
Application No. 09/964,985  
Filed: September 26, 2001  
Attorney Docket No. SLA1004

This is a decision on the renewed petition under 37 CFR 1.137(b)<sup>1</sup>, filed August 9, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on October 23, 2009, for failure to timely file a reply to the Final Office action mailed July 22, 2009, which set a three (3) month shortened statutory period for reply. No extensions of time under 37 CFR 1.136(a) were obtained. Accordingly, a Notice of Abandonment was mailed February 18, 2010. A petition filed March 18, 2010 was dismissed in a decision mailed June 7, 2010, because the examiner indicated that the amendment filed with the petition did not prima facie place the application in condition for allowance.

Petitioner has submitted a Request for Continued Examination (RCE) with a request that a previously filed amendment be considered as the submission required under 37 CFR 1.114.

This matter is being referred to Technology Center 2625 for processing of the RCE.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball  
Senior Petitions Attorney  
Office of Petitions

<sup>1</sup>Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).